



Lamoine Board of Selectmen

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Minutes of August 11, 2011

Chair Jo Cooper called the meeting to order at 7:01 PM

Present were: Selectmen Gary McFarland, Cynthia Donaldson, Richard Fennelly Jr., S. Josephine Cooper; Administrative Assistant Stu Marckoon, Budget Committee Member Kathleen DeFusco, Deputy Code Enforcement Officer/Assessor Michael Jordan, Transfer Station Manager William Fennelly, Shellfishing Conservation Committee Representative Paul Davis and Board of Assessors Chair Jane Fowler. Selectman William Brann had phoned prior to the meeting to report he would be unable to attend.

Agenda Review – Richard had e-mailed Stu just prior to the meeting to ask that the shellfish closures issue be added to the addendum. No other changes were proposed.

Minutes of July 14, 2011 – Cynthia had a minor correction. Jo moved to approve with the correction, Gary 2nd. **Vote in favor was 4-0.**

Expenditure Warrant 3 – There were no questions regarding warrant 3 which was signed on July 27, 2011 individually for \$15,553.19.

Expenditure Warrant 4 – Selectmen signed expenditure warrant 4 for \$384,296.59. Stu noted that the school payment, county tax, and paving were all included on the warrant. He noted that the paving project came in slightly under budget, but some shoulder work needs to be completed.

Cash & Budget Report – Stu reported the report for Fiscal Year ending 6/30/11 should be pretty close to final. There were no comments. Jo asked about the parks expenditures and the special town meeting warrant. Stu confirmed the town meeting article referred to the 2010/11 fiscal year.

Checking Account Reconciliation – Selectmen signed the statement expressing satisfaction with the review of the checking account reconciliation of July 31, 2011.

Town Meeting Warrant – Selectmen reviewed the articles on the special town meeting warrant for September 15, 2011. There was a brief discussion about the format for changes to the Shellfishing Ordinance. Selectmen signed the warrant.

Code Enforcement Officer Contract – Stu reported the changes suggested at the last meeting were acceptable to the Code Enforcement Officer who has signed the contract with those changes. Jo moved to sign the contract as revised. Cynthia 2nd. **Vote in favor was 4-0, Selectmen signed the contract.**

Heating Fuel – Stu reported that Hancock's Board of Selectmen preferred to have a joint meeting to open and award a bid. He said he would be happy to reword the RFP. There was no objection.

Contract with Deputy Code Enforcement Officer – Stu reported he drafted a contract for 2011/12 with Michael Jordan which was basically the same as the previous contract, but the dates and price were changed. Jo moved to sign the contract, Cynthia 2nd. **Vote in favor was 4-0.** Mr. Jordan was present and had not seen the draft. He asked how many weeks off were included in the Code Enforcement Officer's contract. Stu said he believed it was three.

Appointment – Jo moved to appoint William Kohlenbush as an associate member of the Conservation Commission. Richard 2nd. There was a brief discussion about associate members of the Commission not being able to be a voting member. **Vote in favor was 4-0.**

Returnables – Jo moved to approve Forest Hill Cemetery as the beneficiary of the proceeds of the returnables for September. Cynthia 2nd. **Vote in favor was 4-0.**

Jo moved to approve the Conservation Commission as the beneficiary of the returnables for October. Richard 2nd. **Vote in favor was 4-0.**

Jo moved to approve Cub Scout Pack # 88 as the beneficiary for November. Cynthia 2nd. **Vote in favor was 4-0.**

Stu reported that another bottle redemption company had called to ask if they could process the returnables. He said the arrangement with Stacey Curtis' company has worked fine. Transfer Station Manager Bill Fennelly confirmed that it was working well. Jo said a Lamoine business was selected for that agreement and she would prefer to leave things as is. She said she thanked the other redemption center for its interest.

MUBEC Workshop Offer – Gary McFarland reported that Mike Lessard has been hired by the State of Maine to give workshops on the Maine Uniform Building and Energy Code (MUBEC), and the 2-hour session would be something that the Selectmen, Planning Board and Code Enforcement Officer might find useful. He said Mr. Lessard would appear by appointment, and local contractors might find the session helpful.

Jo said MUBEC is apparently affecting insurance and banking issues on projects. Gary said banks can turn down loans if new construction is not certified to meet MUBEC. Richard asked whether that's true, even if the municipality is not required to enforce MUBEC. Gary said banks are advising folks to comply. Gary said if the town doesn't adopt the code, it could be a problem down the road. Richard said it would need to be clearly articulated to the public; they might want to think about whether they want to comply with the state code. Gary said the town could inform the public about what they might be up against with banks and/or insurance companies. A brief discussion followed.

Richard asked where the issue stood in the Legislature. Jane Fowler said the legislature increased the population threshold to 4,000 this year. She said she and Mike Jordan attended a class on the matter. A brief discussion followed on the population threshold

and how to opt out. Richard asked why a small community would want to adopt MUBEC, except for the banks. Mr. Jordan said the home owner could hire a third party inspector to comply. Stu said the town office could develop a sheet explaining the options to be issued with building permits. Mr. Jordan said the Planning Board may develop some ordinance language in the coming months.

Jo asked how much Mr. Lessard would charge. Gary said it's \$50/hour. Another discussion followed regarding why a small town would adopt MUBEC.

Jo said she wanted to know if there was any interest from the Planning Board. Mr. Jordan said he didn't know. Jo said maybe this could be forwarded to the Planning Board. Gary said he would get the contact info to Stu

Legal Cases – Stu reported that he e-mailed the material from the town attorney on the Gott v. Planning Board case. Jo asked how much the Selectmen need to understand at this point. Stu said the town attorney is on it.

Old Point v. Board of Assessors – Jane Fowler said the Board of Assessors would like legal representation on this appeal and two others that have been filed with the Board of Property Tax Review. She said answers need to be filed immediately, and the Assessors need to know tonight. She said they would like to use Ed Bearor if he's available. She said she won't know the cost. She said if the Board of Selectmen doesn't authorize legal representation, they're done.

Mrs. Fowler said Old Point Inc. is also before the Hancock County Commissioners. She said the Board of Assessors has done everything they thought was right. She said they're not going to be able to do any more without legal help.

Jo said she favors allowing the Assessors to access an attorney, provided the cost is kept reasonable. Mrs. Fowler said using someone who knows what they are doing will keep the cost reasonable. Richard said there is a 20-day turnaround. Mr. Jordan said they have until Tuesday. Richard said going before the Property Tax Review Board without an attorney is equivalent to losing a case.

Jo moved to allow the assessors to consult with an attorney on all three cases before the Property Tax Review Board. Cynthia 2nd.

Richard said he has expressed a concern before that the town might not prevail, but it cannot prevail without an attorney, and therefore he supports the use of an attorney. Mrs. Fowler said the town failed to file an appeal in Superior Court on the 1st decision of the Property Tax Review Board and had that happened, the case would have been over in five minutes.

Cynthia asked if the assessors thought it would be a valuable learning tool to have an attorney handling the cases this time. Mrs. Fowler said the attorney will file an answer and will accompany the Board of Assessors if and when a date is set by the Property Tax Review Board. A short discussion followed in regard to the learning potential.

Vote in favor of the motion to allow the assessors to consult with an attorney passed 4-0.

Harbor Projects – Stu reported that both the boat ramp and the guest mooring project at Lamoine State Park are on hold for now. He said the state may be planning something for the boat ramp for FY 2013, and there was an incident at the park on July 4th which could affect after hours access. Richard said the town has an interesting relationship with the state, and it might not be in the driver's seat when it comes to park improvements, though it's willing to fund it.

Vandalism – Stu reported that the privy door at Bloomfield Park was ripped off and someone pushed one of the large rocks at the beach into the pond. There was discussion about possibly charging the person for the retrieval of the rock. Stu said he had an idea who might have done it, and would speak with them.

Bill Fennelly said he complained about not being able to launch his boat at Bloomfield Park. He said he had nothing to do with the rock being pushed into the water. He said he has launched boats there unimpeded for many years. A lengthy discussion followed in regard to boat launching and placement of rocks at the beach area. Mr. Fennelly said he was objecting to the new rock that was placed there. There was a discussion about the time line of the rock's placement and what was communicated to Mr. Fennelly in regard to the appropriate place to launch a boat. Selectmen said they would like to find out from the Parks Commission what took place.

Mr. Fennelly said not being able to back a trailer into Blunt's Pond cuts down on the demand for bait from his business and that affects his livelihood. Jo said she hadn't seen the configuration.

Mrs. Fowler asked if the rumors were true that a piece of heavy equipment went into the pond. Stu said he had no idea. He said a man from the Department of Environmental Protection had arrived at the office earlier this day and reported that he'd received a call about the rocks on shore and machinery in the water. He said the man from the DEP said there were no violations that he could see. Richard asked if the town needed a DEP permit for anything. Stu said the Shoreland Zoning Rules would have to be followed, and if a DEP permit were required, the town would have to acquire one. Jo said she would like to follow up the discussion with the Parks Commission.

Incident at Transfer Station – Stu referred to a hand written note from the town clerk following a telephone conversation with the driver from Pine Tree Waste. Richard said Pine Tree Waste should be instructed to lock the gate behind them when they're picking up the trash. Jo said whoever it was that was in the facility while the trash pickup was going on should be informed of the rules. Cynthia said she found it outrageous that someone would act like that. Stu said he would communicate with Pine Tree Waste on closing the gate during pickup. Cynthia said she favored sending a letter to the trespasser. Jo asked that Stu compose a letter saying the incident had been reported

and requesting that the alleged offender adhere to the open hours. The letter would be from the Board Chair.

Road Work List – Stu said he's not been able to develop a list yet. There was a discussion about the lone applicant for the Road Commissioner's job. The Board expressed a desire to talk with him at the September 1, 2011 meeting. There was a brief discussion about potential conflicts of interest.

Asa's Lane Paving – Stu reported Asa's Lane had been paved, but some of the driveway entrances and shoulders need to be brought up to grade.

Urban/Rural Initiative Program – Selectmen signed the form for the Maine Department of Transportation program.

Mowing – Stu reported that Richard McMullen had submitted the lowest bid for mowing the landfill cap and the sides of the roads.

Closed Clam Flats – Richard reported that he received a pair of e-mail messages from Rob Goodwin of the Department of Marine Resources. He said one indicated there was a failing residential septic system in Hancock. He said he would communicate that to the joint board representative in Hancock.

Resignation of Henry Ashmore – Jo moved to accept, with great regret, the resignation of Henry Ashmore from the Budget Committee as he has sold his home and plans to move away from town. Cynthia 2nd. **Vote in favor was 4-0.** Selectmen signed a letter and a certificate for outstanding community service.

Planning Calendar – Selectmen made a selection on the type of calendars to get for committee members for 2012.

Notice of Convicted Felon – Selectmen reviewed the notice from the District Attorney's office about a convicted felon who has located in Lamoine on the Walker Road.

Next Meetings – Jo noted the next meeting will be September 1, 2011. Cynthia noted the meeting listed as October 14 should actually be October 20th. Jo said she would not be able to attend the October 6th meeting due to a work commitment.

There being no further business, the meeting adjourned at 8:17 PM.

Respectfully submitted,

Stu Marckoon, Adm. Asst.